

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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16. Aug. 2004

WV: / LF:

PCT

WRITTEN OPINION OF THE
INTERNATIONAL PRELIMINARY
EXAMINING AUTHORITY

(PCT Rule 66)

T 404-121004 not e

Date of mailing
(day/month/year)

13.08.2004

Applicant's or agent's file reference

51154 WO

REPLY DUE

within 60 days from
the above date of mailing

International application No.

PCT/IB2002/004162

International filing date (day/month/year)

10.10.2002

Priority date (day/month/year)

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International Patent Classification (IPC) or both national classification and IPC

H04R 1/28 // G10K 11/02

Applicant

Nokia Corporation et al

1. ☐ The written opinion established by the International Searching Authority:

☐ is

☐ is not

considered to be a written opinion of the International Preliminary Examining Authority.

2. This first (first, etc.) opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☐ Box No. V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(e).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4bis.
For an informal communication with the examiner, see Rule 66.6.
For an additional opportunity to submit amendments, see Rule 66.4.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary report on patentability
(Chapter II of the PCT) must be established according to Rule 69.2 is:

10.02.2005

Name and mailing address of the IPEA/SE

Patent- och registreringsverket
Box 5055
S-102 42 STOCKHOLM

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Authorized officer

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Form PCT/IPEA/408 (cover sheet) (January 2004)

**WRITING OPINION OF THE
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY**

International application No.

PCT/IB2002/004162

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion is based on a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

- ☐ international search (under Rules 12.3 and 23.1(b))
☐ publication of the international application (under Rule 12.4)
☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this opinion has been established on the basis of *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed.")*:

☐ the international application as originally filed/furnished

☒ the description:

pages 1 - 19 _____ as originally filed/furnished

pages _____ received by this Authority on _____

pages _____ received by this Authority on _____

☒ the claims:

pages _____ as originally filed/furnished

pages 1 - 3 _____ as amended (together with any statement) under Article 19

pages _____ received by this Authority on _____

pages _____ received by this Authority on _____

☒ the drawings:

pages 1 - 5 _____ as originally filed/furnished

pages _____ received by this Authority on _____

pages _____ received by this Authority on _____

☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, Nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to the sequence listing (*specify*): _____

4. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages _____

☐ the claims, Nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to the sequence listing (*specify*): _____

WRITTEN OPINION OF THE
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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 1 - 13

because:

☐ the said international application, or the said claims Nos. _____
relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claims Nos. 1 - 13

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the
Administrative Instructions in that:

the written form

☐

has not been furnished

☐

does not comply with the standard

the computer readable form

☐

has not been furnished

☐

does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with
the technical requirements provided for in the Annex C-bis of the Administrative Instructions.

☒ See Supplemental Box for further details.

WRITING OPINION OF THE
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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: BOX III.

All of the claims 1-13 (claims 6-11 as referring to any of claims 1-5) comprise design features which were not present in the claims 1-9 that were subject to the search report. As said added design features has not been the subject of a search, no opinion with regard to novelty, inventive step and industrial applicability will be established with regard to claim(s) comprising such a design feature.

WRITTEN OPINION OF THE
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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Neither of claims 2-11 is drafted in accordance with PCT Rule 6.3(b)(ii), since the word "wherein" does not unambiguously define the characterising part of a claim but may as well, as, e.g., in the present claims 1, 12 and 13, be used to further limit or specify the preamble of a claim. Thus, the phrase "wherein" does, per se, i.e., if not followed by the phrase "the improvement comprises" or similar, not define the characterising portion of a claim. In the present case, no obvious reason for not considering it "appropriate" to use any of the examples mentioned in PCT Rule 6.3(b)(ii) for defining the characterising portion of each of claims 2-11 can be seen.